

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WAPATO HERITAGE, LLC, a  
Washington Limited Liability  
Company; KENNETH EVANS; JOHN  
WAYNE JONES; and JAMIE JONES,  
individual resident of  
Washington State,

Plaintiffs,

v.

SANDRA D. EVANS, an  
individual not a resident of  
Washington State,

Defendant.

NO. CV-07-314-EFS

**ORDER ENTERING RULINGS FROM  
OCTOBER 14, 2009 HEARING**

A telephonic hearing occurred in the above-captioned matter on October 14, 2009, in Richland. Michael A. Arch and R. Bruce Johnston appeared on Plaintiffs' behalf; Leslie R. Weatherhead, Geana M. Van Dessel, and Mary T. Wynne appeared on Defendant Evans's behalf. This Order serves to memorialize and supplement the Court's oral rulings.

1 For the reasons articulated on the record, **IT IS HEREBY ORDERED:**

2 1. Mr. Weatherhead and Ms. Van Dessel's Motion to Expedite (Ct. Rec.  
3 [519](#)) is **GRANTED**.

4 2. Plaintiffs' Motion to Disqualify Counsel (Ct. Rec. [521](#)) is  
5 **GRANTED IN PART**. Ms. Wynne is permitted to appear and file motions on  
6 Defendant Evans's behalf in connection with the federal-question  
7 jurisdictional challenge because this is a purely legal issue; Ms. Wynne  
8 is prohibited, however, from appearing and filing motions on Defendant  
9 Evans's behalf in connection with the diversity jurisdictional challenge  
10 because this is a fact-based issue that will likely require Ms. Wynne to  
11 testify as a witness. See WASHINGTON RULE OF PROF'L CONDUCT 3.7.

12 3. Defendant Evans's Motion to Dismiss for Lack of Subject Matter  
13 Jurisdiction (Ct. Rec. [507](#)) is **STRICKEN**. Ms. Wynne shall re-file a  
14 motion limited to diversity jurisdiction **no later than October 19, 2009**.  
15 Plaintiffs shall file a response addressing **both** federal-question and  
16 diversity jurisdiction **no later than October 26, 2009**. Defendant Evans's  
17 reply, if any, shall be filed **no later than November 2, 2009**. An in-  
18 person hearing on Defendant Evans's to-be-filed motion is set for  
19 **10:00 a.m. on November 13, 2009**, in Richland.

20 4. Mr. Weatherhead and Ms. Van Dessel's Renewed Motion to Withdraw  
21 (Ct. Rec. [515](#)) is **DENIED**.

22 5. Plaintiffs' Motion to Strike (Ct. Rec. [525](#)) is **DENIED**.

23 6. Plaintiffs' Motion to Vacate Partial Stay (Ct. Rec. [479](#)) is  
24 **GRANTED IN PART**. In an August 19, 2009 Order (Ct. Rec. [427](#)), the Court  
25 directed Defendant Evans to complete and mail Form OST 01-004/6, which  
26 had the effect of depositing an amount equal to 35% of any MA-10 income

1 deposited into Defendant Evans's unrestricted IIM account into the  
2 Court's registry, to the OST Colville Agency in Nespelem, Washington.  
3 Defendant Evans did so. (Ct. Rec. [480](#) at 3.) In an August 27, 2009  
4 Order (Ct. Rec. [451](#)), the Court stayed the implementation of Form OST 01-  
5 004/6. The Court now lifts that stay as to MA-10 income deposited into  
6 Defendant Evans's unrestricted IIM account during October 2009. See  
7 *United States v. United Mine Workers of America*, 330 U.S. 258, 292 (1947)  
8 (noting that a court has the power to issue orders pending resolution of  
9 a jurisdictional question); LR 67.1 (permitting a court to direct one  
10 party to deposit funds into the court's registry when the funds belong  
11 to another party). Accordingly, the OST Colville Agency in Nespelem,  
12 Washington shall send 35% of any MA-10 income deposited into Defendant  
13 Evans's unrestricted IIM account by check payable to "Clerk of the U.S.  
14 District Court" at P.O. Box 1493, Spokane, Washington 992210. The Court  
15 holds in abeyance any decision as to MA-10 income deposited into  
16 Defendant Evans's unrestricted IIM account after October 2009 pending the  
17 outcome of the upcoming hearings.

18 If Defendant Evans has questions, then she may contact Sheri Wohl,  
19 the Financial Administrator for the Eastern District of Washington, at  
20 509-458-2409. **Until the appropriate funds are deposited into the Court's**  
21 **Registry, Defendant Evans may not withdraw or otherwise expend in any**  
22 **manner any MA-10 income deposited into her unrestricted IIM account.**  
23 **This Order is binding upon any agent or attorney-in-fact for Defendant**  
24 **Evans.**

25 7. Mr. Weatherhead is directed to immediately advise the appropriate  
26 BIA officials of this Order.

s/Edward F. Shea  


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EDWARD F. SHEA  
United States District Judge

ORDER  $\sim 4$